

REMARKS

Claims 1-26 were previously pending in this application. Claims 1 and 2 have been amended. As a result claims 1-26 are pending for examination with claims 1, 2 and 16 being independent claims. No new matter has been added.

Rejections under 35 U.S.C. §101

The withdrawal of the rejection of claims 1, 3-6, 16-22, and 25-26 under 35 U.S.C. §101, in view of Applicant's amendment filed July 23, 2009, is gratefully acknowledged.

Rejection under 35 U.S.C. §112

Claims 1-26 have been rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the invention. Claims 1 and 2 have been amended to overcome this rejection.

The recitations objected to by the examiner as constituting new matter have been revised. All of the features now mentioned in the claims have support in the specification as suitable description is found in the specification. For example, the steps related to shipping and shipping instructions have been clarified, now mentioning shipping and shipping instructions only in the context given in the specification. See Claim 1 and the Written Description at page 10, lines 11-15 and FIG 5B. When an order is processed, FIG. 4, step 420, the order is, of course, shipped to the location selected, FIG. 5B, 522, as indicated. Also, the phrase "absent intervention of an approvals agent" has been eliminated in favor of a clear recitation of the transfers of information between named parties and technological features such as a server, etc. See FIG. 4, including the specific step of sending and receiving information between parties and systems.

Claims 1, 2 and 16 now comply with 35 U.S.C. §112, first paragraph. Claims 3-15 and 17-26 stand rejected for their dependency on claims 1, 2 and 16, which are now in good form. Accordingly, withdrawal of the rejection of claims 1-26 under 35 U.S.C. §112, first paragraph, is respectfully requested.

Claims 2, 10-15 and 23-24 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out the subject matter regarded as the invention. Claim 2 has been amended, overcoming this rejection.

The Examiner has made this rejection on grounds that the elements of the claim in “means-plus-function” form are not supported by sufficient disclosure of structure to satisfy 35 U.S.C. §112, second paragraph. Claim 2 has been amended to make clear the relationship between the claimed “means” and the disclosed structure so as to render the claim definite.

In particular, claim 2 now recites, “a client software module executing on a computer operated by a requestor and by which the requestor requests” information from a server, “a software module executing on the computer server which provides” information back to the requestor to cover those elements of the claim accomplished through the recited combinations of software and computer hardware. As for the “means for sending,” the “means for...shipping,” and the “means for obtaining the patient record...from the destination location,” these are all supported by structure in the specification. See, for example, the descriptions of FIGs. 1-4 at

Accordingly, withdrawal of the rejection of claims 2, 10-15 and 23-24 under 35 U.S.C. §112, second paragraph, is respectfully requested.

Rejection under 35 U.S.C. §103

Claims 1-6, 8-12, 14-18 and 20-26 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,028,049, to Shelton (hereinafter “*Shelton*”) for substantially the same reasons as in the previous Office Action (paper number 20090108), and further in view of Rock et al. U.S. Patent No. 6,032,120 to Rock (hereinafter “*Rock*”).

Claim 1 has been amended to now more clearly recite several features of the inventive method by which the claim patentably distinguishes over the cited art. First, the requestor makes the request, which includes both a source location and a shipping location, of “a record ordering computer server” which is included in “an electronic health information system.” Next, “the record ordering computer server provides a cover letter “having a machine readable identifier and human readable information, identifying the order requested.” Separately, *the patient provides to the requestor* “a patient authorization letter authorizing release of the patient record concerning the identified patient.” The *requestor* ends up with both the cover letter and the patient authorization letter, which the requestor submits, *not to the record ordering server*, namely the server at which the requestor submitted the original request, but instead to “a record processing center” which ships out the patient record to the shipping location, in response to the submission to the record processing center of *both* the request and patient authorization letter.

According to the express language of the claims in the instant application, the requestor who makes the request of one system is the same person or entity who collects the cover letter identifying the request made and the authorization letter by which the requestor has permission to obtain the patient record, and then for the same requestor to be the person or entity who submits the cover letter evidencing the particular request along with the corresponding patient authorization letter to a second system which delivers the record according to the properly authorized request. Only the requestor and patient are involved in a specified relationship.

In contrast, the prior art (either *Shelton* alone, or *Shelton* taken in view of *Rock*) teaches a system and method that requires the request and the authorization to be consolidated by an **approvals agent**, namely a person or entity, who is *not* the **requestor**, rather than the **requestor**. *Shelton* teaches a system, method and variations thereof, which have in common that the **requestor** submits a request to an **approvals agent** and that the **patient** submits authorization for release of the requested records to the **approvals agent**. The **requestor**, **approvals agent** and **patient** are three separate persons or entities. In *Shelton*, as explained below, the records are requested by a **requestor** (one entity) and the request is then forwarded to a processing center by the **approvals agent** (a second entity) once the **approvals agent** receives the **patient's** approval. Moreover, *Shelton* does not specifically require that the requestor *first* interact with “a record ordering computer server” through which the request is submitted, and *then* with “a record processing center” to which the “cover letter” *and* the “patient authorization letter” are submitted for record retrieval and shipping to the shipping location.

As described in *Shelton*, a query is first run by a requestor to produce an index of relevant documents that might be requested. The **requestor** then selects one or more desired documents and, using an order form, **requests** the desired documents. A component of the ordering system, the **Approvals Agent 16**, then generates a **request for approval** which is sent to the patient or other person with authority to release the documents. The **patient** or other person responds directly to the **Approvals Agent 16**, or a pre-approval record stored in the system is retrieved, after which the documents are retrieved and forwarded to the **requestor**, not the **Approvals Agent 16**. See *Shelton*, cols. 9-12. The request for approval and the authorization to release documents never pass to or through the requestor, who remains passive once the request is submitted. Moreover, the requestor never receives a cover letter to be matched with the patient authorization and forwarded to a processing center because the approving party interacts directly

with the Approvals Agent of *Shelton*, not with the requestor. Once the requestor submits the order form, no cover letter identifying the order or further submission of the same is required.

Contrary to the Examiner's argument, *Shelton*, even in combination with *Rock* does not disclose, teach or suggest certain claimed features in combination in such a manner as to render the present claims obvious to one skilled in this art. For example, as noted above, *Shelton* teaches a system, method and variations thereof, which have in common that the **requestor** submits a request to an **approvals agent** (i.e., an intermediary, in *Shelton* implemented as a software module executing on a server) and that the **patient** submits authorization for release of the requested records to the **approvals agent**. The **approvals agent** then passes an approved request through to the processing center. The claim language discussed above clearly requires otherwise. The claim language requires that the cover letter and the patient authorization letter both be submitted from the **requestor** to the **record processing center**. Moreover, *Shelton* does not specifically require that the requestor *first* interact with one computer-implemented entity, namely "a record ordering computer server" through which the request is submitted, and *then* interact with another computer-implemented entity, namely "a record processing center" to which the "cover letter" and the "patient authorization letter" are submitted for record retrieval and shipping to the shipping location, as implicitly required by the claim language.

The supplemental reference applied to claim 7 adds nothing pointed out above as missing from the combination.

Accordingly, withdrawal of this rejection of claim 1 and of claims 3-9, 21, and 22 dependent therefrom is respectfully requested.

Claim 2 is directed to a system for obtaining a patient record. Like claim 1, claim 2 has been amended to now more clearly recite several features of the invention by which the claim patentably distinguishes over the cited art. The system includes a software module through which the requestor makes a request for a patient record. The request includes both a source location and a shipping location of a record desired by the requestor. The claimed system includes "a record ordering computer server" which is included in "an electronic health information system" through which the request is received. The system further includes a software module executing on the record ordering computer server through which the record ordering computer server provides a cover letter "having a machine readable identifier and human readable information, identifying the order requested." Separately, a "means for sending"

enables *the patient to provide to the requestor* “a patient authorization letter authorizing release of the patient record concerning the identified patient.” The system as claimed has such an arrangement that the *requestor* ends up with both the cover letter and the patient authorization letter, which the *requestor* submits, *not to the record ordering server*, namely the server at which the requestor submitted the original request, but instead to “a processing center” which ships out the patient record to the shipping location, in response to the submission to the record processing center of *both* the request and patient authorization letter.

According to the express language of the claims in the instant application, the requestor who makes the request of one system is the same person or entity who collects the cover letter identifying the request made and the authorization letter by which the requestor has permission to obtain the patient record, and then for the same requestor to be the person or entity who submits the cover letter evidencing the particular request along with the corresponding patient authorization letter to a second system which delivers the record according to the properly authorized request. Only the requestor and patient are involved in a specified relationship.

In contrast, the prior art (either *Shelton* alone, or *Shelton* taken in view of *Rock*) teaches a system and method that requires the request and the authorization to be consolidated by an approvals agent, namely a person or entity, who is *not* the requestor, rather than the requestor. *Shelton* teaches a system, method and variations thereof, which have in common that the *requestor* submits a request to an *approvals agent* and that the *patient* submits authorization for release of the requested records to the *approvals agent*. The requestor, approvals agent and patient are three separate persons or entities. Moreover, *Shelton* does not specifically require that the requestor *first* interact with “a record ordering computer server” through which the request is submitted, and *then* with “a record processing center” to which the “cover letter” *and* the “patient authorization letter” are submitted for record retrieval and shipping to the shipping location, as the claim language implicitly requires.

As described in *Shelton*, a query is first run by a requestor to produce an index of relevant documents that might be requested. The requestor then selects one or more desired documents and, using an order form, requests the desired documents. A component of the ordering system, the Approvals Agent 16, then generates a request for approval which is sent to the patient or other person with authority to release the documents. The patient or other person responds directly to the Approvals Agent 16, or a pre-approval record stored in the system is retrieved,

after which the documents are retrieved and forwarded to the requestor. *See Shelton, cols. 9-12.* The request for approval and the authorization to release documents never pass to or through the requestor, who remains passive once the request is submitted. Moreover, the requestor never receives a cover letter to be matched with the patient authorization and forwarded to a processing center because the approving party interacts directly with the Approvals Agent of *Shelton*, not with the requestor. Once the requestor submits the order form, no cover letter identifying the order or further submission of the same is required.

Contrary to the Examiner's argument, *Shelton*, even in combination with *Rock* does not disclose, teach or suggest certain claimed features in combination in such a manner as to render the present claims obvious to one skilled in this art. For example, as noted above, *Shelton* teaches a system, method and variations thereof, which have in common that the **requestor** submits a request to an **approvals agent** (i.e., an intermediary, in *Shelton* implemented as a software module executing on a server) and that the **patient** submits authorization for release of the requested records to the **approvals agent**. The **approvals agent** then passes an approved request through to the processing center. The claim language discussed above clearly requires otherwise. The claim language requires that the cover letter and the patient authorization letter both be submitted from the **requestor** to the **record processing center**. Moreover, *Shelton* does not specifically require that the requestor *first* interact with one computer-implemented entity, namely "a record ordering computer server" through which the request is submitted, and *then* interact with another computer-implemented entity, namely "a record processing center" to which the "cover letter" and the "patient authorization letter" are submitted for record retrieval and shipping to the shipping location as the claim language implicitly requires.

Accordingly, withdrawal of this rejection of claim 2 and of claims 10-15, 23, and 24 dependent therefrom is respectfully requested.

Claim 16 has been amended to now more clearly recite several features of the inventive method by which the claim patentably distinguishes over the cited art. First, the requestor makes the request, which includes both a source location and a shipping location, of "a first computer server." Next, the requestor is provided with a cover letter "having a machine readable identifier and human readable information, identifying the order requested." Separately, *the patient provides to the requestor* "a patient authorization letter authorizing release of the patient record concerning the identified patient." The **requestor** ends up with both the cover letter and the

patient authorization letter, which the requestor submits, *not to the first computer server*, namely the server at which the requestor submitted the original request, but instead to “a processing center” which ships out the patient record to the shipping location, in response to the submission to the record processing center of *both* the request and patient authorization letter.

According to the express language of the claims in the instant application, the requestor who makes the request of one system is the same person or entity who collects the cover letter identifying the request made and the authorization letter by which the requestor has permission to obtain the patient record, and then for the same requestor to be the person or entity who submits the cover letter evidencing the particular request along with the corresponding patient authorization letter to a second system which delivers the record according to the properly authorized request. Only the requestor and patient are involved in a specified relationship.

In contrast, the prior art (either *Shelton* alone, or *Shelton* taken in view of *Rock*) teaches a system and method that requires the request and the authorization to be consolidated by an ***approvals agent***, namely a person or entity, who is *not* the ***requestor***, rather than the ***requestor***. *Shelton* teaches a system, method and variations thereof, which have in common that the ***requestor*** submits a request to an ***approvals agent*** and that the ***patient*** submits authorization for release of the requested records to the ***approvals agent***. The ***requestor***, ***approvals agent*** and ***patient*** are three separate persons or entities. Moreover, *Shelton* does not specifically require that the requestor *first* interact with “a record ordering computer server” through which the request is submitted, and *then* with “a record processing center” to which the “cover letter” and the “patient authorization letter” are submitted for record retrieval and shipping to the shipping location.

As described in *Shelton*, a query is first run by a requestor to produce an index of relevant documents that might be requested. The requestor then selects one or more desired documents and, using an order form, requests the desired documents. A component of the ordering system, the Approvals Agent 16, then generates a request for approval which is sent to the patient or other person with authority to release the documents. The patient or other person responds directly to the Approvals Agent 16, or a pre-approval record stored in the system is retrieved, after which the documents are retrieved and forwarded to the requestor. *See Shelton, cols. 9-12*. The request for approval and the authorization to release documents never pass to or through the requestor, who remains passive once the request is submitted. Moreover, the requestor never

receives a cover letter to be matched with the patient authorization and forwarded to a processing center because the approving party interacts directly with the Approvals Agent of *Shelton*, not with the requestor. Once the requestor submits the order form, no cover letter identifying the order or further submission of the same is required.

Contrary to the Examiner's argument, *Shelton*, even in combination with *Rock* does not disclose, teach or suggest certain claimed features in combination in such a manner as to render the present claims obvious to one skilled in this art. For example, as noted above, *Shelton* teaches a system, method and variations thereof, which have in common that the ***requestor*** submits a request to an ***approvals agent*** (i.e., an intermediary, in *Shelton* implemented as a software module executing on a server) and that the ***patient*** submits authorization for release of the requested records to the ***approvals agent***. The ***approvals agent*** then passes an approved request through to the processing center. The claim language discussed above clearly requires otherwise. The claim language requires that the cover letter and the patient authorization letter both be submitted from the ***requestor*** to the ***record processing center***. Moreover, *Shelton* does not specifically require that the requestor *first* interact with one computer-implemented entity, namely "a record ordering computer server" through which the request is submitted, and *then* interact with another computer-implemented entity, namely "a record processing center" to which the "cover letter" and the "patient authorization letter" are submitted for record retrieval and shipping to the shipping location, as implicitly required by the claim language.

Accordingly, withdrawal of this rejection of claim 16 and of claims 17-20, 25, and 26 dependent therefrom is respectfully requested.

CONCLUSION

In view of the foregoing amendments and remarks, reconsideration is respectfully requested. This application should now be in condition for allowance; a notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee that is not covered by an accompanying payment, please charge any deficiency to Deposit Account No. 50/2762, Ref. C1151-7000.

Respectfully submitted,
Joe McCollum, Applicant

By: /Gary S. Engelson/
Gary S. Engelson, Reg. No. 35,128
LANDO & ANASTASI, LLP
One Main Street
Cambridge, Massachusetts 02142
Telephone: 617-395-7000
Facsimile: 617-395-7070

Date: April 13, 2010